

LFC Requester: Faubion



**PUBLIC EDUCATION DEPARTMENT  
BILL ANALYSIS  
2025 REGULAR SESSION**

**SECTION I: GENERAL INFORMATION**

Check all that apply:

Original  Amendment   
Correction  Substitute

Date Prepared: 02/10 /25  
Bill No: HB324

Agency Name and Code: PED - 924

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Short EDUCATIONAL  
Title: SCHOLARSHIPS & TAX CREDIT

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**SECTION II: FISCAL IMPACT**

(Parenthesis ( ) Indicate Expenditure Decreases)

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
None	None	N/A	NFA

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
(\$2,500.0)	(\$2,666.7)	(\$2,833.3)	Recurring	GF

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$110.0	\$110.0	\$110.0	\$330.0	Recurring	GF

Duplicates/Relates to Appropriation in the General Appropriation Act: None

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

Synopsis: House Bill 324 (HB324) would transfer tax payments that would otherwise go to the state, to taxpayers supporting private schools. The bill would provide the authorization of School Tuition Organizations (STOs) to award educational scholarships to low-income students to attend private schools, and would also create the Educational Scholarship Income Tax Credit and the Educational Scholarship Corporate Income Tax Credit for contributions made to STOs.

The bill does not have an effective date. Laws go into effect 90 days after the adjournment of the legislature enacting them unless a later date is specified. If enacted, this bill would become effective June 20, 2025.

The tax credit provisions of HM324 would retroactively apply to taxable years beginning on or after January 1, 2025.

### **FISCAL IMPLICATIONS**

The bill does not contain an appropriation.

Tax credits reduce the amount of revenue generated by the state from taxes. The total of all tax credits would reduce the revenue to the state which may be used for government administration, channeling the monies that would have been collected from tax liabilities to STOs and private schools. For a similar bill in 2024, House Bill 105, the [Taxation and Revenue Department](#) (TRD) estimated a \$2.5 million reduction in state revenue in the first year. As the size of the available credit would increase due to inflation, TRD estimated the recurring cost of HB105 would increase to approximately \$3 million after four years.

Public schools make up more than 40 percent of the state budget. HB325 in providing tax credits for contributions for student tuition to private schools, indirectly shifts funding from public schools to private schools.

PED would be required to process taxpayer applications for the tax credit and STO applications for authorization. At least one FTE administrative personnel would be required, at a cost of \$110,000.

### **SIGNIFICANT ISSUES**

HB324 would establish the two tax credits matching in full the taxpayer's total taxable year donations to STOs up to \$700 for individuals, \$1,400 for heads of households, and \$1,400 for corporations, adjusted for inflation for subsequent years. The taxpayer would apply with the PED for certification eligibility, and the tax credit would not be refundable if its amount exceeds the taxpayer's tax liability, but could be carried forward for up to three consecutive years.

Section 1 of HB324 would provide for the PED to authorize an STO to receive tax-deductible donations funding the awards of educational scholarships for eligible students to attend private school. It would establish STO eligibility requirements:

- (1) allocate at least 90 percent of the organization's annual revenue received from contributions for educational scholarships to eligible students to attend private schools in

New Mexico;

- (2) not limit the availability of educational scholarships to students of only one private school;
- (3) not allow donors to designate student beneficiaries as a condition of any contribution to the organization or facilitate, encourage or knowingly allow the exchange of beneficiary student designations;
- (4) include on the organization's website, if one exists, the percentage and total dollar amount of educational scholarships awarded during the previous fiscal year;
- (5) award educational scholarships only to eligible students; and
- (6) not award educational scholarships to attend a public, tribal or federal bureau of Indian education schools.

HB324 would require STOs to report annually by September 30 to the department aggregate information about scholarship activities in the past year. By January 1 of the following calendar year, PED would post publicly online a summary STO report.

HB324 would require STOs receiving \$500,000 or more in contributions to undergo an independent financial audit in the next fiscal year, while others would be required to provide for an independent financial review in the next fiscal year. Audits and financial reviews would be at the expense of the STO, conducted by September 30, and filed with PED within 5 days of completion.

Only current public school students who are residents of New Mexico from households that would qualify for federally subsidized, reduced-price lunch would be eligible for STO scholarships to private schools. Students who are eligible initially would continue to be eligible as they are continuously attending the private school, regardless of household income, until reaching the age of 21 or graduating from high school.

## **PERFORMANCE IMPLICATIONS**

None.

## **ADMINISTRATIVE IMPLICATIONS**

HB324 would create significant administrative burden on PED as it places a number of requirements onto PED, including:

- maintaining a public registry of authorized school tuition organizations;
- making the registry available to the public on request; and
- posting the registry on the department's website.

PED would be required to process applications from taxpayers for certification of their eligibility for the tax credits and process applications from STOs for their authorization. No such tax credits currently exist in statute. At least one additional staff at the PED would be needed to process applications.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to:

- House Joint Resolution 16 (HJR16) proposing to amend Articles 4 and 9 of the

Constitution of New Mexico to provide by law a state funding program for home school or private school.

- House Bill 177, Home School Curriculum Material Tax Credit, which proposes as tax credit of up to \$2500 per year per school-age person in a home school to help defray costs for educational and instructional materials.
- House Bill 213, School Solar Tax Credits, which proposes permitting a tax credit of up to forty percent of the value of or the cost to install a photovoltaic system on public school property.
- House Bill 387, Education Opportunity Account Act, which proposes such accounts to pay expenses related to private school attendance by eligible students.
- House Bill 388, Low-Income Education Opportunity Account Act, which proposes such accounts to pay expense related to private school attendance by students whose household income is less than 200 percent of the federal poverty level.

Several other bills in the current session propose income tax credits with implications for state revenue.

## **TECHNICAL ISSUES**

The definition of "eligible student" in Section 1 of the bill is in conflict with the definition of "school-age person" in the General Provisions of the Public School Code, which includes persons aged 21 years through their twenty-second birthday. House Bill 324 includes students only through their twenty-first year of age, leaving out students who are between 21 and 22 years of age.

## **OTHER SUBSTANTIVE ISSUES**

A 2016 analysis from the TRD of similar legislation noted that tax credits for individuals and corporations that encourage private school attendance may conflict with the state's obligation to establish and finance a public education system.

Students eligible for scholarships provided by the organizations within the scope of the bill would be in households with income that qualifies them for federal reduced-price or free school lunch programs. The unstated policy assumption underlying the bill may be that students in poverty would be better served by private schools. The bill would provide indirectly for tuition assistance for the families who would choose private schools. However, as private schools would not receive state funding directly, they would not be required to be inclusive in admissions policies and practices. Unlike public schools, private schools may deny admission to a student based on classifications under the Equal Protection Clauses of the Constitutions of the United States and New Mexico.

## **ALTERNATIVES**

None.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

None.

## **AMENDMENTS**

The sponsor may wish to amend the proposed definition of “eligible student” to better comport with the existing definition in the General Provisions.